

PUBLIC SAFETY

Tuesday, November 3, 2020 – 5:30 p.m.

via Zoom

Present: Members: Chairman Witte, Vice Chairman Dougherty, Alderman Panus, Alderman Gonzalez, Alderman Crawford, and Alderman Robinson. Others: Mayor William Aiello; Nicholas DiCerbo, Jr., City Attorney; Bob Ring, Director of Public Works; Capt. Ed Jennings, Code Enforcement Supervisor; Jason Wells, Information Technology, and Tiffany Taylor, Managerial Confidential Administrative Secretary.

1. Roll Call

Alderman Witte called the meeting to order at 5:30 p.m. and asked that the record show that all committee members were present.

2. Approval of Minutes of the Previous Committee Meetings (Tuesday, October 6, 2020)

3. Unfinished Business

- a. PL #61-20: (Crawford) To amend the City of Olean Code of Ordinances Chapter 12, Housing Code, to include Article VI, Short-Term Rental Registration and Licensing.

Alderman Crawford explained that the committee previously discussed the need for short-term rentals popping up in residential areas in the City. He explained that they are not currently in huge abundance, but there are now ten or more in Olean.

Alderman Gonzalez explained that he received a complaint over the past weekend regarding a property on York Street. He explained that the owners moved away and listed the property on VRBO. The neighbors have seen progressively worse and worse short-term tenants, and the tipping point was this past weekend. He explained that there were well over 100 individuals at the house, with loud screaming until 2:30 a.m. and cars lined up and down the street. He explained that it is obviously a pretty significant problem. This was already in the works at the time, but this is just further evidence that legislation is needed.

Alderman Witte explained that we don't want someone to get a short-term rental for the purpose of having these types of parties, and Alderman Gonzalez explained that this is exactly what appears to have happened here. He explained that the party was very uncharacteristically loud for the neighborhood.

Alderman Crawford explained that one of the neighbors reached out to him, and he explained that we are working on this legislation and this is exactly why we want to regulate short-term

rentals. He explained that this could also happen when someone owns a home or rents it long-term, but then the resident would still have to look their neighbors in the eye the next day. You're more apt to have short-term rentals used to hold parties, especially during this pandemic, leaving the neighborhood to worry about it when the renters pack up and go home at the end of the day. He explained that this is just a slippery slope. We all pay property taxes and want nice neighborhoods. We need to put some checks and balances in place to preserve neighborhoods.

Alderman Crawford thanked Capt. Jennings for cleaning up the proposed legislation and putting a good format together for the short-term rental regulations and policy. He explained that Capt. Jennings sent an update with some minor changes, which he passed along to the rest of the Council via email. He noted that the draft did not change much from last time.

Capt. Jennings explained that he changed wording from "Residential Code" to "Property Maintenance Code", and excluded some verbiage that did not need to be there. He explained that he does not think that you can apply for a Special Use Permit through the Planning Board because there are expirations on these. He explained that he would recommend that an applicant go through Site Plan Review, or allow the Code Enforcement Office to handle applications.

Alderman Crawford explained that the legislation was updated to include a requirement for a Site Plan Review if the parcel is located in an R1, R2, or R3 district, as well as proof of hazard insurance. He explained that Capt. Jennings did a great job to make sure that from a legal standpoint properties need to be safe, including requiring inspections. He explained that the Council needs to decide if Code Enforcement has the ability to authorize a short-term rental in an R1, R2, or R3 district, or if there should be another form of review, such as Planning Board or Zoning Board. He explained that essentially, he would like to see a mechanism for residents in the neighborhood to have an opportunity to be notified of the proposed short-term rental, as well as to have the opportunity to voice any concerns that they may have prior to the issuance of a permit.

Alderman Robinson explained that he feels that when an initial application is submitted, it should go to Code Enforcement to ensure that it meets all safety requirements, then go through the Planning Board to make a decision if the property is in a R1, R2, or R3, and then go through Code Enforcement only for annual renewals.

Alderman Witte asked if there is a problem child like this property on York Street, that passes inspection and is issued a license, is there a way to hold them accountable or even fine them when issues like these arise. She explained that she feels that we are headed in the right direction, but she feels that there needs to be responsibility on the part of the owner. She

questions how that would be addressed. Alderman Dougherty explained that the Noise Ordinance, which has been drafted but not passed in Resolution form, would have helped to address this situation. Alderman Gonzalez explained that the police did come and they did break up the party. The owners have been contacted and they are mortified by this situation. They are reassuring us that this isn't what they want for the neighborhood. He explained that he is not saying that this is unnecessary because it absolutely is, but he feels that some issues will fix themselves after the owner of the property is aware of what is going on.

Alderman Crawford asked how this is preventable. He explained that they say that it will never happen again, but he questions how it is really preventable. Alderman Gonzalez asked if someone owns a house and lives in it, how we would prevent them from creating noise issues and neighborhood disturbances. Alderman Crawford explained that at the end of the day a homeowner still needs to face his neighbors. He explained that a short-term rental in a R1, R2 or R3 is like putting a motel in a residential neighborhood. People can have good intentions but people can go under the knife. He explained that maybe we are getting into the weeds on this.

Capt. Jennings explained that Section 12-95 includes penalties and offenses, as well as permit revocations. He explained that after three separate incidents, the City can choose to revoke the permit. In addition, if the application goes through Site Plan Review, the Planning Board can include stipulations and conditions. He explained that the applicant would not have to go through the site plan every year, and at the time of permit renewal would only need to go through Code Enforcement for a reinspection of the property with a \$60 fee.

Alderman Gonzalez asked if after three strikes the City could revoke the permit and ability to operate the parcel as a short-term rental in the City regardless of the terms and conditions of the website used to list the parcel, and Mr. DiCerbo explained that is correct. He explained that he believes that Airbnb has a section regarding governmental regulations that includes if a permit is required from the municipality that the permit needs to be uploaded onto the site in order to list the rental on Airbnb. He explained that we don't have any regulations now, but other municipalities have regulations on the books that the responsible host would need to abide by in order to be listed on Airbnb.

Alderman Panus asked if there is verbiage in the legislation that would define what a "strike" is so that if someone takes the City to court, they can't get the permit revocation thrown out. Alderman Crawford explained that in the permit revocation section, it includes violations of any provision of the ordinance, violations of the City noise and nuisance ordinances, violations of any zoning ordinance, or violation of a permit or condition. Capt. Jennings added that there is also a fine that the City can go after for \$250 for the first offense and \$1,000 per offense thereafter.

Alderman Panus asked if there would be any confusion with a rental agent involved in the short-term rental, in terms of where tickets and fines go. Capt. Jennings explained that if the property owner is out of town, that a property manager within 20 miles of Olean is required. He explained that the property manager is just as liable for service as the property owner. Alderman Dougherty explained that the fine is still the responsibility of the property owner but that if the manager accepts service and the owner does not show up to court, that the proceeding can still continue because service occurred to a responsible party.

Alderman Crawford asked what the best direction for approval in R1, R2, and R3 districts is. Mr. DiCerbo explained that his concern is allowing the neighborhood to have their say. He explained that he is concerned that if the application goes to the Planning Board, it could cause in some circumstances some unneeded delay or confusion in handling these things. He explained that perhaps as a prerequisite to issuing the permit, allow Code Enforcement to handle the application initially and if Code Enforcement makes a determination then the applicant has an opportunity to appeal. He explained that an application could also be submitted with a requirement that notices be sent out to surrounding neighbors prior to approval with a 15 day comment period to allow Code Enforcement receive objections to the issuance of an application. He explained that he is not sure how Code Enforcement feels about that, but he thinks that we have to at least look at something to make an initial determination about what needs to happen.

Alderman Gonzalez explained that the second option allows Code Enforcement to run without bogging down the Planning Board, while also still giving the neighborhood a voice. Mr. DiCerbo explained that it also gives some responsibility back to the neighbors. We want to hear their comments and concerns, and if there are none, we can issue the license. He explained that if there are some and we determine that we are going to deny the license, the applicant can then appeal to the Planning Board to get the license. He explained that the Planning Board does a lot and does a good job, but we don't want to bog them down from doing what their primary charge is.

Alderman Crawford explained that he is fine with this logic if we can create the verbiage just expressed. He explained that if Capt. Jennings says that the process is doable, we can require notification letters be sent out, with a fourteen day comment period for neighbors to respond to the Code Enforcement office with comments. He explained that way, our due diligence is met and Code Enforcement can make a decision based on the comments that they do or don't get.

Alderman Dougherty explained that his only issue is that we are creating this legislation, and we don't want to hinder any business owner. Mr. DiCerbo explained that is why the process needs to have some sort of appeal for a board to give the permit final determination. He explained

that there needs to be something for the applicant to go to a body and plead their case for a permit.

Capt. Jennings explained that he thinks that this is feasible and it meets his criteria. He doesn't want to bog down the Planning Board. He explained that if complaints do come in and there is an issue, Code Enforcement can reject the application for Site Plan Review through the Planning Board and particular problems can go through them. Alderman Crawford explained that he is fine with this, as long as some notification is given to the residents so they have the ability to comment. He explained that then the landlord can appeal to a higher body if the application is denied. Alderman Crawford asked if the neighbors have an appeal process if the permit is approved, and Mr. DiCerbo explained that we can put that into the legislation, but questioned if we want to reopen the application up for objections or limit the appeal to those who objected originally. He explained that we need to determine how objections would be considered valid.

Mr. DiCerbo explained that it could be worded so the application is put through Code Enforcement, and Code Enforcement puts conditions on the permit within their authority to regulate. The proposed permit with the conditions could be sent to neighbors so that they can really only object to Code Enforcement's conditions. This could then be vetted out at the next level. Alderman Crawford explained that he is fine saying that if you didn't speak up during the initial comment period that you don't get to during the appeal. He explained that he just wants to know how this gets played out, because we don't want to hear the neighbors asking why they weren't informed.

Mayor Aiello explained that he thinks that everyone is making this more complicated than it has to be. He explained that we have a process and a Planning Board, and he doesn't think that these applications will bog them down. He explained that we should let the application go to the Planning Board which has its own process, including notifying neighbors and an appeal process.

Alderman Gonzalez asked what the criteria is for who gets notified when a request to the Planning Board triggers notification to surrounding properties. Capt. Jennings explained that for a Special Use Permit the adjoining neighbors are notified, and for a Site Plan Review neighbors are notified within 250 feet of the property line.

Alderman Crawford explained that he tends to agree with the Mayor. He understands that there are concerns that there would be an initial wave of the original 10 or 15 go through the process, but after those are finalized and go through the process he doesn't anticipate more than one every three months. He explained that the only thing that he cares about is that neighbors have a say. Mayor Aiello explained that he feels that the best way for the neighbors to have a say is to send the application to the Planning Board.

Alderman Crawford asked Mr. DiCerbo and Capt. Jennings if it is possible to work this into the legislation, and Mr. DiCerbo explained that it is. He added that we will not need to amend the zoning law either.

A motion to approve PL #61-20, with amendments discussed during meeting, and refer it to the Committee of the Whole was made by Alderman Crawford, seconded by Alderman Gonzalez. Voice vote, ayes all. Motion carried.

4. New Referrals for Consideration

- a. PL #67-20: (Dougherty) To amend the City of Olean Code of Ordinances Section 24-134 to prohibit parking on a portion of the east side of the 300 block of North Third Street.

Alderman Dougherty explained that this was previously discussed. He explained that based on remarks from the DPW Director and the Police Chief, they recommended that the change is unnecessary. He explained that he wanted to put forth a PL to do his due diligence for his constituent. Alderman Crawford asked what the comments were from the Police Chief and DPW Director, and Alderman Dougherty explained that they commented that the line of site is not blocked in either direction. He explained that they commented that this was unnecessary as parking does not pose line of site issues.

A motion to approve PL #67-20 was made by Alderman Dougherty. No second.

- b. PL #68-20: (Witte) To amend the City of Olean Code of Ordinances Section 24-81 to include a 20 mph speed limit on portions of Main Street and Hamilton Avenue while school is in session.

Mr. Ring explained that the City Attorney put together two PL's for this based on a map presented at the last committee meetings. He explained that this is the way that the Attorney's Office chose to move forward to make the changes. Mr. DiCerbo agreed.

A motion to approve PL #68-20 was made by Alderman Witte, seconded by Alderman Crawford. Voice vote, ayes all. Motion carried. Referred to City Attorney for Resolution.

- c. PL #69-20: (Witte) To authorize the installation of school zone, speed reduction and pedestrian crossing signs on Main Street and Hamilton Avenue in the vicinity of the Boardmanville School building.

A motion to approve PL #69-20 was made by Alderman Witte, seconded by Alderman Dougherty. Voice vote, ayes all. Motion carried. Referred to City Attorney for Resolution,

5. Approval of Committee Reports

A motion to approve committee reports was made by Alderman Gonzalez, seconded by Alderman Dougherty. Voice vote, ayes all. Motion carried.

Mayor Aiello explained that the City has the Tree Committee that was previously formed, and two aldermen are needed to serve on the committee. Mr. Ring explained that the Council President is a member of the committee, and two additional aldermen are needed.

Alderman Witte explained that she has received complaints from constituents on First Street towards the middle school, where people have been going straight when it is right turn only. Alderman Robinson explained that the same holds true for Seventh Street. Mayor Aiello explained that he will ask the Police Chief for enforcement at these two locations.

6. Adjournment

A motion to adjourn was made by Alderman Dougherty, seconded by Alderman Crawford. Voice vote, ayes all. Motion carried. Meeting adjourned at approximately 6:20 p.m.